

REMARKS

In the Final Office Action dated June 4, 2003, all pending claims 1 through 17 were considered. Claims 6, 7, 12, and 13 were objected to as being dependent upon a rejected base claim, but indicated allowable subject to being rewritten in independent form. Claims 14-17 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description. Claims 15-17 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Claims 1-5, 8-11, and 14-17 are rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,435,523 (hereinafter referred to as “the Hying et al. patent”) in view of U.S. Patent No. 5,281,064 (hereinafter referred to as “the Zimmer patent”).

Applicants herein amend claim 14 to remove the indication that the nut retainer member is seated within the upper jack tube. Applicants appreciate the Examiner's close attention to the claims and in addressing this inconsistency. Applicants likewise herein amend claim 15 to remove the ambiguous language and to clarify that the screw nut has a diameter substantially smaller than the diameter of the lower jack tube.

Obviousness Rejection under 35 U.S.C. 103(a):

Applicants respectfully request that the Examiner reconsider the §103(a) rejection of claims 1-5, 8-11, and 14-17 as being unpatentable over the Hying et al. patent in view of the Zimmer patent.

Applicants reiterate that the Zimmer reference is non-analogous art and respectfully request that the Examiner reconsider the Section 103 rejection. While clearly the subject matter

of the Zimmer patent is not analogous to the subject matter of the Hying et al. patent, the Examiner argues that one skilled in the art would employ the nut cage 46 of the Zimmer patent to provide a cheaper and easier means for capturing the Hying et al. nut in the upper end of the lower jack tube. Applicants respectfully disagree.

One skilled in the art of telescoping jack tubes would not have considered nut cage 46 of the Zimmer patent because the nut cage 46 is not capable of functioning as nut retainers used for telescopic jack tubes. The Zimmer patent discloses a sheet metal cage 46 used for retaining a nut 48 within a handle body. The sheet metal nut cage 28 and nut assembly are snapped into position in the handle by engagement of the retainer portions 64,66. The cage 46 retains the nut 48 from rotating during tightening of the bolt so that the bolt head can retain the handle tightly against the panel. The only function performed by the cage 46 is to prevent rotation of the nut 48.

However, considering the Hying et al. patent as a whole, rotation prevention of the nut 7 is not the only function required by the “nut retainer”. To move the inner tube relative to the outer tube, the nut 7 is secured within the upper end of the inner tube and is engaged with an elongated screw. With this construction, rotation of the screw drives the stationary nut up and down relative to the screw and correspondingly moves the inner tube telescopically relative to the outer tube. Therefore, because the inner tube supports the entire jack weight when the jack is in use, the “nut retainer” must not only retain the nut from rotation, but must also support the entire load transferred from the screw to the lower tube so as to prevent the tubes from telescopically collapsing.

There is no support in the Zimmer patent for using the nut cage 46 with telescoping tubes nor that the nut cage 46 can withstand any longitudinal force acting upon the nut. Therefore, the

Zimmer patent would not have logically commended itself to an inventor's attention in considering the problems associated with holding a nut within a telescopic jack tube and is therefore non-analogous art relative to telescopic jack tubes.

Applicants likewise reiterate their objection to the combination of the Hying et al. patent and the Zimmer patent as inappropriate. The arguments supporting the Zimmer patent as non-analogous art relative to Applicants invention further support the contention that the combination as argued by the Examiner would be wholly inadequate to produce the intended result.

Should the sheet metal nut cage 46 of Zimmer be snapped into engagement with the lower tube of the Hying et al. patent as suggested by the Examiner, clearly the snap-in connection would not withstand any appreciable longitudinal force acting on the nut.

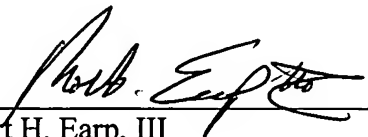
Considering the amount of weight supported by the telescopic jack tubes, a snap-in sheet metal nut cage 46 would never prevent telescopic collapse of the tubes.

Considering the references as a whole, it appears clear that the nut cage 46 of the Zimmer patent would not be desirable for use with telescopic jack tubes. Furthermore, given to the structural and functional limitations of the Zimmer nut cage 46, there would be no reasonable expectation of success in combining it with the Hying et al. patent to produce the telescopic jack of the present invention.

Therefore, Applicants respectfully request that the Examiner reconsider the rejection of claims 1-5, 8-11, and 14-17 under 35 U.S.C. 103(a). Although the Examiner indicates that claims 6, 7, 12, and 13 are allowable subject to being rewritten in independent form, Applicants contend that the above remarks should overcome the Section 103(a) rejection and that all claims appear allowable over the art.

In light of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the Section 103 rejection and indicate claims 1 through 17 as allowable over the art. The Examiner is encouraged to call undersigned counsel should any questions or comments arise regarding the reconsideration or allowance of the claims as presented herein.

Respectfully submitted,


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